



UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 01 2006

In re Application of :
Arendt, et al. :
Application No. 10/042,412 :
Filed: January 7, 2002 :
Attorney Docket No. AUS919970761US2 :
For: HIGHLY SCALABLE AND HIGHLY :
AVAILABLE CLUSTER SYSTEM :
MANAGEMENT SCHEME :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contends that the above-identified application became abandoned for failure to submit a reply to the July 13, 2005 non-final Office action, which set an extendable three month period for reply. No reply being received, the Office considered this application abandoned on October 14, 2005. A Notice of Abandonment was mailed on April 6, 2006.

Petitioners allege that the July 13, 2005 non-final Office action was not received.

The showing required to establish non-receipt of an Office communication must include:


1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.¹

¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have proven non-receipt. The petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 2143 for the mailing of a non-final Office action with a new period for response.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.


Shirene Willis Brantley
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